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EXAMINER

SHANG, ANNAN Q

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JAMES ALAN STROTHMANN,
STEVEN ANTHONY BARRON, and DAVID EMERY VIRAG

Appeal 2009-011525
Application 09/603,339
Technology Center 2400

Before JOSEPH F. RUGGIERO, ELENI MANTIS MERCADER, and
CARL W. WHITEHEAD, JR., *Administrative Patent Judges*.

MANTIS MERCADER, *Administrative Patent Judge*.

DECISION ON APPEAL

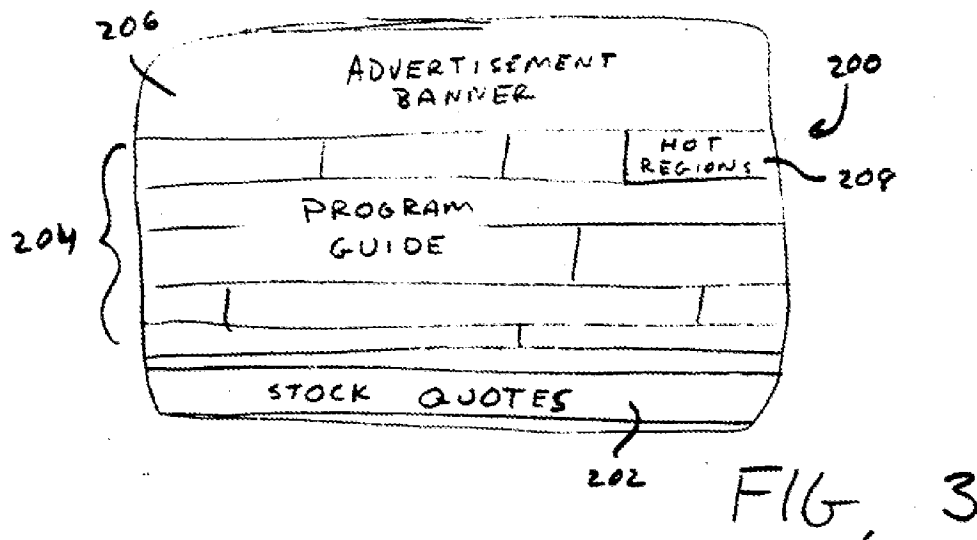
STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from the final rejection of claims 1-3, 5, 6, 9-17, 19, and 20. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

INVENTION

Appellants' Figure 3 is depicted below:



Appellants' Figure 3 and claimed invention are directed to a method and apparatus for using DVD subpicture formatted information within a MPEG data stream to provide data channel information to a television receiver or other device that uses an MPEG and DVD transport mechanism. Multiple DVD subpicture bitstreams can be combined with the MPEG bitstream and transmitted by a transmitter, and processed by a DVD subpicture decoder in the receiving system. The DVD subpicture information is capable of supporting interactive functions. *See Spec. 2.*

The DVD subpicture formatted bitstreams can be used for carrying program guide information 204. The program guide information is interactive such that hot regions 208 are displayed using the highlighting function of the DVD subpicture format such that a user may “browse” a region in the program guide and have the subpicture processor highlight the region. Once the highlighted region is “selected,” the receiver may either select another program guide page for display, select some other DVD subpicture information, or map that region to a new channel to be tuned and displayed. As such, the user can select a channel for display directly from the program guide and have the tuner automatically tune to that channel. *See Spec. 11.*

Claim 1, reproduced below, is representative of the subject matter on appeal (emphasis added).

1. A method for providing graphics display, comprising the steps of:
receiving a bitstream including an MPEG compliant program bitstream and a DVD subpicture compliant bitstream, wherein a portion of *the DVD subpicture compliant bitstream is repeated in said received bitstream*;
extracting and decoding the MPEG compliant program bitstream to generate a program image signal;
extracting and decoding the DVD subpicture compliant bitstream to generate a graphic image signal; and
combining the program image signal and the graphic image signal to provide an output display signal, wherein the DVD subpicture compliant bitstream comprises an interactive graphic having selectable regions that, when selected, causes the display of other DVD subpicture graphics associated with said subpicture compliant bitstream.

THE REJECTIONS

The Examiner relies upon the following as evidence of unpatentability:

Suzuki

US 6,344,836 B1

Feb. 5, 2002

Adolph	US 6,370,323 B1	Apr. 9, 2002
Kanazawa	US 6,580,870 B1	Jun. 17, 2003
Velez	US 6,678,006 B1	Jan. 13, 2004

The following rejections are before us for review:

Claims 1-3, 5, 6, 9-11, 14-17, 19, and 20 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Kanazawa in view of Velez and further in view of Adolph.

Claims 12 and 13 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Kanazawa in view of Velez and further in view of Adolph and Suzuki.

ISSUE

The pivotal issue is whether the Examiner's combination of Kanazawa in view of Velez and further in view of Adolph teaches the limitation of “*the DVD subpicture compliant bitstream is repeated in said received bitstream*” as recited in claim 1 (emphasis added).

ANALYSIS

I. Analysis with respect to the rejection of claims 1-3, 5, 6, 9-11, 14-17, 19, and 20.

Appellants argue that compression of data into a DVD subpicture compliant bitstream based on (underlying) data repetition is completely different from the claim 1 limitation of “receiving . . . a DVD subpicture compliant bitstream, wherein a portion of the DVD subpicture compliant bitstream is repeated in said received bitstream” (App. Br. 8 (emphasis omitted)). Appellants explain that the encoding described by Velez serves to compress data by identifying and removing repetition from the underlying

data, whereas in the presently claimed invention “the DVD subpicture compliant bitstream is repeated,” thereby adding repetition to the encoded bitstream (App. Br. 8 (emphasis omitted)). Appellants assert that one skilled in the art would understand that Velez is referring to using run-length encoding to remove pre-existing intrinsic repetition of bits from a bitstream, which is completely different from, and in no way suggests, a “bitstream . . . repeated,” as claimed (Reply Br. 7 (emphasis omitted)).

We are persuaded by Appellants’ arguments. The Examiner relies on Velez to cure Kanazawa’s lack of teaching subpicture bitstream repetition (Ans. 9). Contrary to the Examiner’s assertion (Ans. 9), Velez teaches a run length encoding technique applied on “*the DVD subpicture data stream 34*” based on “patterns of compressed data . . . and how often they repeat” (col. 3, ll. 29-58 (emphasis added)). In other words, this is a compression technique applied on the *data* of a single subpicture bitstream 34. So at best, Velez teaches repetition of data within a single bitstream, and reduction of that repetition by compression. Nowhere does Velez teach repetition of “*the DVD subpicture compliant bitstream*” as recited in claim 1 (emphasis added).

Appellants’ own Specification makes the distinction between the run-length encoding of a bitstream which differs from repeating the DVD subpicture bitstreams up to 32 times (Spec. 9). More particularly, Appellants’ Specification recites that “[t]he DVD subpicture bitstream comprises run length encoded bit maps that are compressed in accordance with the run-length compression rules The DVD subpicture information can comprise up to 32 subpicture bitstreams” (Spec. 9 (emphases added)). In other words, a DVD subpicture compliant bitstream is compressed based on

run length encoding (i.e., removing bit repetition), but the invention as claimed requires multiple portions of these DVD subpicture compliant bitstreams *repeated* in the received bitstream.

For the aforesaid reasons we will reverse the Examiner's rejection of claim 1 and for similar reasons the rejections of independent claims 10 and 19, as well as the rejections of dependent claims 2, 3, 5, 6, 9, 11, 14-17, and 20. We note that the additional reference of Adolph does not cure the above cited deficiency.

II. Analysis with respect to the rejection of claims 12 and 13.

We will also reverse the Examiner's rejections of claims 12 and 13 for the same reasons as stated *supra* because the additional reference of Suzuki alone or in combination also fails to cure the above cited deficiency.

CONCLUSION

The Examiner's combination of Kanazawa in view of Velez and further in view of Adolph does not teach the limitation of "*the DVD subpicture compliant bitstream is repeated in said received bitstream*" as recited in claim 1 (emphasis added).

ORDER

The Examiner's rejection of claims 1-3, 5, 6, 9-17, 19, and 20 is reversed.

REVERSED

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